

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7270

Joint Petition of Verizon New England Inc.,       )  
d/b/a Verizon Vermont, Certain Affiliates       )  
Thereof, and FairPoint Communications, Inc.       )  
for approval of an asset transfer, acquisition of       )  
control by merger and associated transactions       )

Order entered: 6/6/2007

**ORDER RE: CITY OF BURLINGTON ELECTRIC DEPARTMENT'S AND GREEN  
MOUNTAIN POWER CORPORATION'S MOTIONS TO INTERVENE**

This proceeding concerns a proposed asset transfer from Verizon New England, Inc., d/b/a Verizon Vermont ("Verizon"), to Fairpoint Communications, Inc. ("Fairpoint"). A scheduling Order was issued on March 9, 2007, establishing, among other things, a March 14, 2007, deadline for intervention. Numerous intervention motions were filed and approved.<sup>1</sup>

On April 27, 2007, the City of Burlington Electric Department ("BED") filed a Motion to Intervene. The filing occurred thirty-two business days after the intervention deadline. BED seeks intervention as of right under PSB Rule 2.209(A). Alternatively, BED seeks permissive intervention under PSB Rule 2.209(B). BED asserts that its interests under an existing Joint Ownership Agreement ("BED- Agreement"), dated October 1, 1955, with Verizon may be adversely affected by the outcome in this proceeding. According to BED, the BED-Agreement governs the ownership of utility poles in BED's service territory and the setting of new poles. BED notes that it has a substantial interest in the continuation of the BED-Agreement and divided ownership of utility poles. Additionally, BED claims that this proceeding is the

---

1. See Order of March 9, 2007.

exclusive means by which it can protect its interest, that its interests could not be adequately represented by existing parties, and that its Motion should be considered as timely.

No party objected to BED's motion.

On May 16, 2007, Green Mountain Power Corporation ("GMP") filed a Motion to Intervene. The filing occurred forty-five business days after the intervention deadline. GMP seeks intervention as of right under PSB Rule 2.209(A). Alternatively, GMP seeks permissive intervention under PSB Rule 2.209(B). GMP also asserts that it has a substantial interest in an existing Joint Ownership Agreement ("GMP-Agreement"), dated September 1, 1989, with Verizon that may be adversely affected by the outcome in this proceeding. According to GMP, the GMP-Agreement governs the ownership, maintenance and timely removal of utility poles within GMP's service territory. GMP notes that it has an interest in ensuring that joint ownership issues are adequately addressed in this proceeding. Additionally, GMP claims that this proceeding is the exclusive means by which it can protect its interest under the GMP-Agreement, that its interests could not be adequately represented by existing parties and that its Motion should be considered as timely.

On May 30, 2007, Verizon informed the Board that it opposes GMP's motion to intervene on grounds that GMP did not adequately justify its failure to meet the deadline and that GMP's concerns with respect to jointly-owned poles have been raised by Vermont Electric Cooperative, Inc ("VEC"). No other party objected.

BED and GMP filed their motions more than a month after the intervention deadline. Orderly proceedings require the Board to mandate compliance with such procedural deadlines. Late interventions certainly should not be granted as a routine matter, particularly where the movant is an experienced participant in Board proceedings. In this instance, however, both BED and GMP have a responsibility to protect the interests of their customers and stockholders, and no party has contested the substantiality of the movants' interests nor the assertion that this proceeding is the exclusive means by which they can protect those interests. Accordingly, the Board grants permissive intervention, pursuant to PSB Rule 2.209(B) to both GMP and BED.

Verizon correctly observes that VEC has already raised joint pole ownership issues in its prefiled testimony. However the other agreements and circumstances may be materially different, and this may indeed be the only case in which BED and GMP can adequately protect

their interests. At this point in the proceeding, it is impossible to say that the resolution of issues surrounding VEC's joint pole agreement will address the concerns raised by BED and GMP. For this reason, we conclude that the benefits of allowing BED's and GMP's participation outweigh the potential costs of allowing late intervention.

Our approval is based, in part, on BED's and GMP's acceptance of the procedural schedule as set forth in the Board's March 9 Prehearing Conference Memorandum. Because responding parties have already filed testimony, BED and GMP will forego the opportunity to prefile direct testimony. Moreover, BED and GMP have missed the first round of discovery. As provided in the current schedule, their remaining opportunities to participate before the technical hearings begin will consist of issuing discovery requests that will follow petitioners' rebuttal testimony (July 13) and filing their own rebuttal testimony (August 10). Of course, they may participate fully in the technical hearings, within the limits of the interests described in their respective motions. We encourage BED, GMP and VEC to actively work together in order to increase efficiencies to the greatest extent possible. We also encourage BED and GMP to work with the Department of Public Service to seek ways to protect the interests of their customers and shareholders through the Department's advocacy.

SO ORDERED.

Dated at Montpelier, Vermont, this 6<sup>th</sup> day of June, 2007.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: June 6, 2007

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [psb.clerk@state.vt.us](mailto:psb.clerk@state.vt.us))*